

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

ARTEC GROUP, INC.,

Plaintiff,

v.

ANDREY KLIMOV, et al.,

Defendants.

Case No. 15-cv-03449-EMC

**ORDER DENYING WITHOUT
PREJUDICE DEFENDANT'S
ADMINISTRATIVE MOTION FOR
PERMISSION TO OPPOSE
PLAINTIFF'S MOTION FOR DEFAULT
JUDGMENT; AND VACATING
HEARING ON PLAINTIFF'S MOTION
FOR DEFAULT JUDGMENT**

Docket No. 310

Previously, default was entered against Defendant Axon Business Systems, LLC after its counsel withdrew and Axon failed to hire a new attorney to represent it. *See* Docket No. 259 (notice). Plaintiff Artec Group, Inc. has now moved for a default judgment against Axon. In response to the motion, Axon has asked for permission to file an opposition to Artec's motion (with the opposition being authored by its former counsel, Seyfarth Shaw LLP). Artec has opposed Axon's request for relief.

Having considered the parties' submissions, the Court hereby rules as follows. Before Axon may oppose Artec's motion for default judgment, Axon must first move to set aside the entry of default. *See Newson v. Countrywide Home Loans, Inc.*, No. C 09-5288 SBA, 2013 U.S. Dist. LEXIS 7381 (N.D. Cal. Jan. 17, 2013) (stating that "[t]he entry of default cuts off a defendant's right to appear in an action"; adding that defendant's motion to dismiss was therefore "improper" and the appropriate "remedy [was] to file a motion to set aside the entry of default"). Axon has not done so and therefore the Court **DENIES** Axon's motion for relief, but without prejudice.


In order to afford Axon the opportunity of moving to set aside the entry of default, the

1 Court temporarily **VACATES** the hearing on Artec's motion for default judgment. Axon shall
2 have one week from the date of this order to file a motion to set aside the entry of default.¹ Artec
3 shall have one week thereafter to file an opposition. There shall be no reply. Absent further order
4 of the Court, the Court shall not hold a hearing on Axon's motion to set aside the entry of default.

5 This order disposes of Docket No. 310.

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7 **IT IS SO ORDERED.**

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9 Dated: August 24, 2017

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13 EDWARD M. CHEN
14 United States District Judge
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28 ¹ Axon, if it wishes, may have counsel who previously represented it (Seyfarth Shaw) file a
motion to set aside the entry of default on its behalf. Nothing precludes Axon from retaining
Seyfarth Shaw for a limited representation.